

Coto, J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE APPLICATION OF HICKS
BROADCASTING OF INDIANA, LLC., ET AL.
(HOLIDAY BROADCASTING COMPANY OF
ELKO, ET AL.)

09 CV 7759 (DLC)

Related to

UNITED STATES OF AMERICA,
Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS,
Defendant.

41 CV 1395 (DLC)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/9/09

CONSENT JUDGMENT

WHEREAS, the parties to the above-captioned proceeding having consented to have this Court hear and determine the application of applicants Hicks Broadcasting of Indiana, LLC, et al., for reasonable license fees for licenses from the American Society of Composers, Authors and Publishers ("ASCAP") for periods commencing January 1, 2001; and this Court having issued its Final Order in the above-captioned proceeding on October 15, 2004, approving the ASCAP 2004 Radio Station License Agreement ("ASCAP License Agreement"), covering the period January 1, 2001 through December 31, 2009 ("the License Period"); and

WHEREAS, pursuant to Paragraph 7 of the Final Order this Court retained continuing jurisdiction for the purpose of enforcing the Final Order, as well as "the terms, conditions and obligations of the ASCAP License Agreement"; and

WHEREAS, on October 14, 2009, ASCAP filed a motion to enforce the Final Order against Holiday Broadcasting Company of Elko and Holiday Broadcasting Company (collectively "Holiday"); and

WHEREAS, Holiday Broadcasting Company of Elko ("Holiday Elko") is the F.C.C. licensee of radio station KRJC-FM located in Elko, Nevada; and

WHEREAS, Holiday Broadcasting Company ("Holiday Broadcasting") is the F.C.C. licensee of radio station KDYL-AM (formerly KKDS-AM) located in South Salt Lake, Utah; and

WHEREAS, KRJC-FM and KDYL-AM are collectively referred to as "the Stations;" and

WHEREAS, Ralph J. Carlson is the President and majority stockholder of both Holiday Elko and Holiday Broadcasting; and

WHEREAS, the Stations are "Bound Station[s]" as that term is used in the Final Order entered by this Court on October 15, 2004 and are bound to the terms and conditions of their ASCAP License Agreements; and

WHEREAS, Holiday executed ASCAP License Agreements for the Stations; and

WHEREAS, as of this date, Holiday owes ASCAP \$79,850.46 for the Stations, representing unpaid license fees and late payment charges for periods through November 30, 2009, and

WHEREAS, ASCAP and Holiday have agreed to the entry of this Consent Judgment;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Pursuant to the terms and conditions of the ASCAP License Agreement for the Stations, Holiday owes ASCAP a total of \$79,850.46 ("Judgment Amount") for the Stations, representing unpaid license fees and late payment charges for periods through November 30, 2009, and judgment is hereby entered against Holiday Broadcasting Company of Elko and Holiday Broadcasting Company and in favor of ASCAP in such amount;
2. Holiday shall pay to ASCAP the Judgment Amount as follows:
 - a. A monthly installment of Four Thousand, Two-Hundred and Twelve Dollars (\$4,212.00) ("Monthly Installment") on or before the 1st day of each month, beginning with December 1, 2009 through May 1, 2010, from which the Stations' current monthly license fees owed to ASCAP, as determined pursuant to the Stations' ASCAP License Agreements in effect at that time, whether a final, interim or extension license, will first be paid; and the remainder of the Monthly Installment will be applied to the Judgment Amount.
 - b. The balance of the Judgment Amount plus accrued interest on or before June 1, 2010, provided, however, that if, on that date, Holiday is in compliance with the terms and conditions of this Consent Judgment, ASCAP and Holiday may negotiate in good faith the terms for payment in reasonable installments of the remainder of the Judgment Amount and any other remaining sums owed to ASCAP.

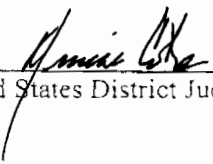
c. ASCAP agrees to deduct late payment charges in the amount of \$17,439.29 if on June 1, 2010: (i) Holiday is in compliance with the terms and conditions of this Consent Judgment, and (ii) Holiday pays to ASCAP the entire remaining balance of the Judgment Amount.

3. If Holiday violates the terms and conditions of this Consent Judgment, ASCAP will give Holiday written notice of such default. If Holiday fails to cure such default within ten business days from the date of ASCAP's notice, ASCAP shall be entitled to have execution issue immediately on this Judgment and without further notice to collect any balance then due pursuant to this Judgment.

4. Failure of a check made payable to ASCAP by Holiday to clear for payment constitutes default pursuant to the terms and conditions of this Consent Judgment. Holiday will be responsible for all costs incurred by ASCAP in bank fees and penalties that result from the failure of a check made payable to ASCAP by Holiday to clear for payment.

5. Interest on the Judgment Amount shall be calculated in accordance with 17 U.S.C. § 1961; provided, however, that if (i) the Judgment Amount is paid in full by June 1, 2010, and (ii) all monthly payments are made pursuant to Paragraph 2(a), interest on the Judgment Amount shall be waived.

Dated: December 9, 2009
New York, New York


United States District Judge

We consent to the entry of the foregoing consent judgment:

Dated: 12-8-09

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS

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Dated: 11/30/09

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